

# CITY of ALBUQUERQUE

## TWENTY-FOURTH COUNCIL

COUNCIL BILL NO. O-20-30 ENACTMENT NO. 0-2020-038

SPONSORED BY: Diane G. Gibson

1 ORDINANCE  
2 ADOPTING A NEW ARTICLE IN CHAPTER 13 ROA 1994, BUSINESS AND  
3 OCCUPATIONS, TO BE KNOWN AS THE “SHORT TERM RENTAL  
4 ORDINANCE”, ESTABLISHING A PERMITTING FEE, AND AMENDING SECTION  
5 4-4-13 ROA 1994 LODGERS TAX ADVISORY BOARD TO INCLUDE A SHORT  
6 TERM RENTAL REPRESENTATIVE.  
7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
8 ALBUQUERQUE:

9 SECTION 1. A new article §13-19 of ROA 1994 is hereby adopted as follows:

10 “§13-19-1 SHORT TITLE.

11 SECTION §13-19 ROA 1994 shall be known and cited as the “Short Term  
12 Rental Ordinance”.

13 § 13-19-2 APPLICABILITY.

14 This Article applies to the operation of Short Term Rentals as defined by  
15 subparagraph 13-19-4, Definitions.

16 § 13-19-3 INTENT AND PURPOSES.

17 The intent of Article §13-19 et seq. is to regulate and provide a permitting  
18 system for Short Term Rentals (STR) in order to protect the health, safety, and  
19 general welfare of Short Term Rental occupants and neighboring residents.

20 § 13-19-4 DEFINITIONS.

21 DWELLING UNIT: One or more connected rooms and a kitchen designed  
22 for and occupied by no more than one family for living and sleeping purposes,  
23 permanently installed on a permanent foundation and meeting the  
24 requirements of Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative  
25 Code and Technical Codes and Uniform Housing Code), as of the date of the

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1 unit's construction. For the purposes of this Ordinance, this definition does  
2 not include Hotels, Motels, or Bed and Breakfast establishments.

3 **MARKETPLACE PROVIDER.** A person who facilitates the rental of lodging  
4 by: (A) advertising the lodging by any means, whether physical or electronic,  
5 including by internet website, online booking platform, catalog, television or  
6 radio broadcast, and (B) collecting payment from the vendee and transmitting  
7 that payment to the vendor either directly or indirectly through agreements or  
8 arrangements with the vendor, regardless of whether the marketplace provider  
9 receives compensation or consideration in exchange for the marketplace  
10 provider's services.

11 **SHORT TERM RENTAL ("STR"):** A rental in a dwelling unit of 29 days or  
12 less.

13 **SHORT TERM RENTAL OPERATOR ("STRO"):** The owner or party  
14 otherwise responsible for a Short Term Rental property or properties.

15 **SHORT TERM RENTAL UNIT ("STRU"):** The dwelling unit or portion thereof  
16 that is rented for 29 days or less. Each unit within a multifamily apartment  
17 building that is rented for 29 days or less is considered a STRU.

18 **§ 13-19-5 GENERAL PROVISIONS.** Each STRO shall:

19 **A.** Maintain a valid City Business Registration for purposes of operating  
20 any one or more STR within the City of Albuquerque;

21 **B.** Pay all applicable local, state, and federal taxes, including Lodgers'  
22 Tax, Hospitality Fee, Gross Receipts Tax and Income Taxes associated with  
23 the operation of each STRU unless the Marketplace Provider does this on the  
24 operator's behalf;

25 **C.** Maintain short term rental insurance coverage for each STRU in the  
26 minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000) per STRU  
27 to insure against damages to guest(s) caused by the STRO, and to insure  
28 against damages caused by STRO guest(s) or the STRO when such damages  
29 are incurred by other persons including, but not limited to, neighbors;

30 **D.** Clearly display inside each STRU a copy of the applicable STR  
31 permit issued pursuant to this Article;

32 **E.** Include the STR permit number issued by the City on all marketing  
33 materials for each respective STRU;

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1 F. Display inside each STRU a current “Good Neighbor Agreement”.  
2 The Good Neighbor Agreement will be provided by the Planning Department  
3 on an annual basis and shall inform the occupants of the maximum overnight  
4 occupancy, maximum gathering occupancy and relevant city ordinances, and  
5 explain that occupants of any STRU are required to comply with all relevant  
6 City ordinances.

7 § 13-19-6 STR PERMITS.

8 A. Permit Required. No STRO shall operate any STR without a valid STR  
9 Permit from the Planning Department for each STR unit proposed to be  
10 operated. In addition to any other necessary information, the Planning  
11 Department shall require submission of the following for each STR Permit  
12 application:

- 13 1. A physical address of the STRU; and
- 14 2. The name, phone number, email, and business address of the STRO  
15 or agent(s) who will be available twenty-four hours per day, seven days a week  
16 to respond to complaints regarding the operation or occupancy of the STR;  
17 and
- 18 3. A scaled floor plan showing the layout and square footage of the  
19 STR unit(s); and
- 20 4. A statement signed by the STRO that the STR will be operated in  
21 compliance with this Article and all other applicable city codes, including but  
22 not limited to the Integrated Development Ordinance, the Uniform Housing  
23 Code, the Fire Code, any relevant Public Health Orders, and the Noise  
24 Ordinance; and
- 25 5. Proof of insurance as required by subsection 13-19-5(C), above.

26 B. Permit Duration; Inspection. Any STR permit issued pursuant to this  
27 Article is valid for 12 consecutive months unless sooner terminated by the  
28 STRO, or cancelled by the City. The Planning Department shall have the right  
29 to inspect each STR, without prior notice, to determine compliance with this  
30 Ordinance and all other applicable City codes.

31 C. Permit Fee. The Planning Department shall collect a STR Permit fee  
32 of \$120.00 for each initial permit, and \$90.00 for the renewals thereafter.  
33 Revenue from fees imposed pursuant to this paragraph shall be used only to

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1 administer, manage, and enforce this section. Upon the transfer of ownership  
2 of a STRU, the STR permit shall terminate. If the new owner wishes to use the  
3 property or unit as a STR, a new application shall be submitted.

4 **§13-19-7 STR OCCUPANCY.**

5 A. The maximum overnight occupancy of an STRU is limited to a  
6 maximum of two adults per bedroom, plus an additional two adults for each  
7 unit excluding studios or efficiencies, such that a two bedroom house would  
8 have an overnight occupancy of six adults, or a three bedroom house would  
9 have an overnight occupancy of eight adults. For the purposes of this  
10 subsection, an adult is any person over 12 years of age.

11 B. Gatherings of Persons in excess of the maximum overnight  
12 occupancy prescribed by subsection 'A', above, shall not exceed two times  
13 the maximum overnight occupancy or 20 persons, whichever is less. All such  
14 gatherings shall conclude and attendees disburse by 10:00 p.m. local time.

15 **§ 13-19-8 ENFORCEMENT AND PENALTIES.**

16 The Zoning Enforcement Officer has the duty and authority to enforce the  
17 Ordinance consistent with the Integrated Development Ordinance, Part 14-16-  
18 6: Administration and Enforcement: 6-9 (C)

19 A. Notice. The Zoning Enforcement Officer shall send a written notice  
20 by First Class Mail to the agent designated for such purposes pursuant to  
21 Section 13-19-6(A)(2), or if no such person has been identified then to the  
22 owner of record as listed in the real property records of the County Clerk. At a  
23 minimum, the notice must include:

- 24 1. A statement that a violation of this Section has been observed  
25 or otherwise determined to exist;
- 26 2. A brief description of the nature of the violation;
- 27 3. Advisement of a 30-day grace period (or longer if appropriate  
28 in the reasonable determination of the Zoning Enforcement Officer) within  
29 which to come into compliance; and
- 30 4. A reference to the penalty provisions of this Section.

31 B. Penalty. If the property has not been brought into compliance within  
32 the grace period set forth by the notice prescribed under subsection 'A' above

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1 or any period of extension granted by the Zoning Enforcement Officer, the  
2 owner or responsible party is subject to:

3 1. The penalty provisions set forth in § 1-1-99 of this code of  
4 ordinances, with each day of violation is considered a separate offense; and

5 2. Instead of or in addition to the penalty provision set forth in §  
6 1-1-99, the City acting through the City Attorney, is hereby authorized to file an  
7 action in a court of competent jurisdiction as a means of compelling  
8 compliance to:

9 a. Enjoin any person from violating or threatening to  
10 violate the terms, conditions and restrictions of this ordinance;

11 b. Collect civil assessments against the property of \$500  
12 per day for every day the property remains or remained in violation of this  
13 Section after the expiration of the grace period or any extensions granted by  
14 the Zoning Enforcement Officer identified in the notice by the Zoning  
15 Enforcement Officer; and

16 c. Recover damages from the owner of a STR in an amount  
17 of money adequate for the City to undertake or reimburse expenditures for any  
18 construction remediation, cleanup, or other activity necessary to bring about  
19 compliance with this Section ordinance.

20 3. In addition to judicial remedies, any expenditure by the City to  
21 bring the property into compliance, or any damages or assessments are  
22 recoverable through the imposition of a municipal lien on the parcel under  
23 NMSA 1978, § § 3-36-1 to 3-36-5. To the extent that monetary penalties are  
24 recovered as a result of enforcement under this Section, any funds so  
25 recovered shall be used exclusively for the purpose of funding enforcement  
26 activities under this Section.

27 4. If the STR commits three (3) or more instances of violations of  
28 City Ordinances or State statutes within a 12 month period the STR Permit  
29 shall be revoked for a period of two years and the STR shall cease to operate.”

30 SECTION 2. INITIAL COMPLIANCE. Each STRO is required to come into  
31 compliance with respect to every STR being operated at the time of the  
32 Effective Date prescribed by 'SECTION 6', below, within six months of the  
33 Effective Date.

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1 SECTION 3. Amend Lodgers Tax Advisory Board Section 4-4-13(A) to read  
2 as follows:

3 "There is created the Lodgers' Tax Advisory Board, which shall consist of  
4 seven members all of whom shall be residents of the city; two of whom shall  
5 represent the lodging industry, two of whom are directly involved in tourist-  
6 related industries; one who shall represent the Short Term Rental industry;  
7 and two members at large who shall represent the public. The members of the  
8 Lodgers' Tax Advisory Board shall be appointed by the Mayor with the advice  
9 and consent of the City Council."

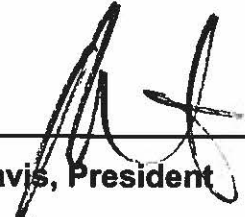
10 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
11 clause, word or phrase of this Ordinance is for any reason held to be invalid or  
12 unenforceable by any court of competent jurisdiction, such decision shall not  
13 affect the validity of the remaining provisions of this Ordinance. The Council  
14 hereby declares that it would have passed this Ordinance and each section,  
15 paragraph, sentence, clause, word or phrase thereof irrespective of any  
16 provision being declared unconstitutional or otherwise invalid.

17 SECTION 5. COMPILATION. SECTION 1 and SECTION 3 of this Ordinance  
18 shall amend, be incorporated in, and made part of the Revised Ordinances of  
19 Albuquerque, New Mexico, 1994.

20 SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect six  
21 months after publication by title and general summary.


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1 PASSED AND ADOPTED THIS 5<sup>th</sup> DAY OF October, 2020  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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10 Patrick Davis, President  
11 City Council

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13 APPROVED THIS 13 DAY OF October, 2020

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16 Bill No. O-20-30

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23 Timothy M. Keller, Mayor  
24 City of Albuquerque

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28 ATTEST:  
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31 Ethan Watson, City Clerk

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